

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL COTA,

Plaintiff

v.

KELLEY ATKINSON, *et al.*,

Defendants

Case No. 3:21-cv-0432-MMD-CLB

**ORDER TO PAY FILING FEE
OR FILE APPLICATION TO
PROCEED *IN FORMA PAUPERIS***

I. DISCUSSION

On September 28, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983. (ECF No. 1-1). Plaintiff has neither paid the full \$402 filing fee for this matter nor filed an application to proceed *in forma pauperis*.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

The Court will grant Plaintiff a **one-time** opportunity to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$402 filing fee for this action on or before **November 29**,

1 **2021**. Absent unusual circumstances, the Court will not grant any further extensions of
2 time.

3 If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis*
4 with all three required documents or pay the full \$402 filing fee on or before **November**
5 **29, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new
6 case with the Court when Plaintiff is either able to acquire all three of the documents
7 needed to file a fully complete application to proceed *in forma pauperis* or pays the full
8 \$402 filing fee.

9 A dismissal without prejudice means Plaintiff does not give up the right to refile the
10 case with the Court, under a new case number, when Plaintiff has all three documents
11 needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff
12 may choose not to file an application to proceed *in forma pauperis* and instead pay the
13 full filing fee of \$402 on or before **November 29, 2021** to proceed with this case.

14 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court
15 will not file the complaint unless and until Plaintiff timely files a fully complete application
16 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

17 **II. CONCLUSION**

18 For the foregoing reasons, IT IS ORDERED that the Clerk of the Court will send
19 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well
20 as the document entitled information and instructions for filing an *in forma pauperis*
21 application.

22 IT IS FURTHER ORDERED that on or before **November 29, 2021**, Plaintiff will
23 either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and
24 the \$52 administrative fee) or file with the Court:

25 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
26 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
27 signatures on page 3),

28 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail

1 official (i.e. page 4 of this Court's approved form), and

2 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
3 **previous six-month period.**

4 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete
5 application to proceed *in forma pauperis* with all three documents or pay the full \$402
6 filing fee for a civil action on or before **November 29, 2021**, this case will be subject to
7 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case
8 number, when Plaintiff has all three documents needed to file a complete application to
9 proceed *in forma pauperis* or pays the full \$402 filing fee.

10 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint
11 (ECF No.1-1) but will not file it at this time.

12 DATED: September 29, 2021

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15 UNITED STATES MAGISTRATE JUDGE
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